S.B.CRIMINAL MISC. PETITION NO.160/2007
(Mahesh Kumar V/s Union of India)

Date of order : : 28.03.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Sandeep Mehta, for the petitioner(s).
Mr.Mohd. Anees Bhurat, on behalf of
Mr.I.S.Pareek, for the respondent.

The present misc. petition has been filed by the petitioner for releasing the petitioner on bail under Section 167(2) Cr.P.C. on the ground that the challan has been filed in the matter beyond the period of 180 days.

The learned counsel for the petitioner states that the accused was arrested on 24.6.2006 and the charge-sheet has been filed on 22.12.2006 i.e. beyond the period of 180 days.

The learned counsel for the petitioner further states that the application has been filed on behalf of the accused under Section 167(2) Cr.P.C., but no order has been passed on the said application as the Presiding Officer of the Court of Special Judge, NDPS Cases, Chittorgarh is on long leave till 11.5.2007 and the Link

Court of Additional Sessions Judge No.1, Chittorgarh, which was also lying vacant, therefore, no orders could be passed on the application under Section 167(2) Cr.P.C.

Now both the counsel for the parties stated that the post of Presiding Officer of Additional Sessions Judge No.1, Chittorgarh has been filled up and therefore, the learned Additional Sessions Judge No.1, Chittorgarh be directed to decide the application under Section 167(2) Cr.P.C. in accordance with law.

Looking to the facts and circumstances of the case and in the interest of justice, if the post of Special Judge, NDPS Cases is lying vacant or if Special Judge is on leave and Additional Sessions Judge No.1 has been empowered as link court then he is directed to decide the application under Section 167(2) Cr.P.C. forthwith in accordance with law. If any party is aggrieved by the order passed by the learned Additional Sessions Judge No.1, Chittorgarh, they are at liberty to avail the appropriate remedy against the said order.

With the aforesaid observations, the present misc. petition stands disposed of.

(KRISHAN KUMAR ACHARYA), J.

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